

ASSEMBLY BILL

No. 960

Introduced by Assembly Member V. Manuel Perez

February 26, 2009

An act to amend Section 12370 of the Penal Code, relating to body armor.

LEGISLATIVE COUNSEL'S DIGEST

AB 960, as introduced, V. Manuel Perez. Body armor.

Existing law provides that any person who has been convicted of a violent felony who purchases, owns, or possesses body armor, except as authorized, is guilty of a felony, punishable by imprisonment in a state prison for 16 months, or 2 or 9 years.

This bill would expand the definition of body armor for these purpose, as specified.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12370 of the Penal Code is amended to
2 read:

1 12370. (a) Any person who has been convicted of a violent
2 felony, as defined in subdivision (c) of Section 667.5, under the
3 laws of the United States, the State of California, or any other state,
4 government, or country, who purchases, owns, or possesses body
5 armor, ~~as defined by Section 942 of Title 11 of the California Code~~
6 ~~of Regulations~~, except as authorized under subdivision (b), is guilty
7 of a felony, punishable by imprisonment in a state prison for 16
8 months, or two or three years.

9 (b) Any person whose employment, livelihood, or safety is
10 dependent on the ability to legally possess and use body armor,
11 who is subject to the prohibition imposed by subdivision (a) due
12 to a prior violent felony conviction, may file a petition with the
13 chief of police or county sheriff of the jurisdiction in which he or
14 she seeks to possess and use the body armor for an exception to
15 this prohibition. The chief of police or sheriff may reduce or
16 eliminate the prohibition, impose conditions on reduction or
17 elimination of the prohibition, or otherwise grant relief from the
18 prohibition as he or she deems appropriate, based on the following:

19 (1) A finding that the petitioner is likely to use body armor in
20 a safe and lawful manner.

21 (2) A finding that the petitioner has a reasonable need for this
22 type of protection under the circumstances.

23 In making its decision, the chief of police or sheriff shall consider
24 the petitioner's continued employment, the interests of justice, any
25 relevant evidence, and the totality of the circumstances. It is the
26 intent of the Legislature that law enforcement officials exercise
27 broad discretion in fashioning appropriate relief under this
28 paragraph in cases in which relief is warranted. However, this
29 paragraph may not be construed to require law enforcement
30 officials to grant relief to any particular petitioner. Relief from this
31 prohibition does not relieve any other person or entity from any
32 liability that might otherwise be imposed.

33 (c) The chief of police or sheriff shall require, as a condition of
34 granting an exception under subdivision (b), that the petitioner
35 agree to maintain on his or her person a certified copy of the law
36 enforcement official's permission to possess and use body armor,
37 including any conditions or limitations.

38 (d) Law enforcement officials who enforce the prohibition
39 specified in subdivision (a) against a person who has been granted
40 relief pursuant to subdivision (b), shall be immune from any

1 liability for false arrest arising from the enforcement of this
2 subdivision unless the person has in his or her possession a certified
3 copy of the permission granting the person relief from the
4 prohibition, as required by subdivision (c). This immunity from
5 liability does not relieve any person or entity from any other
6 liability that might otherwise be imposed.

7 (e) For purposes of this section only, “violent felony” refers to
8 the specific crimes listed in subdivision (c) of Section 667.5, and
9 to crimes defined under the applicable laws of the United States
10 or any other state, government, or country that are reasonably
11 equivalent to the crimes listed in subdivision (c) of Section 667.5.

12 (f) *For purposes of this section only, “body armor” means parts*
13 *or all of a complete armor that may be worn on the person that*
14 *are made from any bullet resistant material intended to provide*
15 *ballistic and trauma protection for the wearer.*

16 SEC. 2. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.